

REMARKS

Claims 1-29 are pending in this application.

Applicant appreciates the indication of the allowance of claims 19 and 24-27.

In the Office Action, claims 1-2, 16, 18, 20 and 29 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,781,695 (Dalton). Claims 3-14, 21-23 and 28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Dalton. These rejections are respectfully traversed. Applicant hereby requests reconsideration and allowance of the claims in view of the following arguments.

Regarding the anticipation rejection of independent claims 1 and 18 based on Dalton, this reference does not disclose several features of the claims. The Office Action analogizes Dalton's fairing 40 to the recited port corpus, and further analogizes Dalton's reservoir body 31 to the recited removable conus. However, using the Examiner's analogies, Dalton does not disclose the claimed feature of the port corpus inlet being canted inwardly along the axis of the port corpus. As plainly seen in Fig. 4 of Dalton, the inlet opening of its fairing 40 is normal to the axis of the fairing 40, which must be in the direction of the needle 60. If the Examiner contends the axis of fairing 40 lies in a direction other than the direction of needle 60, then Dalton does not disclose the claimed "removable conus extending along the axis [of the port corpus]." This is because the axis of Dalton's reservoir body 31 (which the Examiner analogizes to the claimed conus) lies in the direction of needle 60.

Furthermore, Dalton does not disclose the feature of claims 1 and 18 that the port assembly has a substantially slender overall profile. As seen in the drawings of Dalton, its fairing 40 is as wide as it is long, and as a result the overall profile of its device is anything but slender.

Similarly regarding independent claim 29, Dalton does not disclose a port having a substantially slender overall profile and a port corpus with a proximal end angled in relation to its

longitudinal axis, as required by this claim. Also, Dalton does not disclose a substantially frustoconical conus, as recited by claim 29. Dalton's reservoir body 31, analogized in the Office Action to the claimed conus, is clearly right-cylindrical, and not frustoconical, as claimed.

Dalton does not anticipate independent claim 1, 18, or 29, because it does not disclose each and every element of these claims. Moreover, it would not have been obvious to modify Dalton's device to add the missing claimed features to yield the inventions of these claims.

Consequently, independent claims 1, 18, and 29 are patentable, as are claims 2, 16, and 20, which depend from claims 1 and 18, respectively.

Regarding the obviousness rejection of independent claim 28 based on Dalton, this reference cannot render claim 28 obvious, because it does not teach or suggest any of the recited steps. The Office Action seems to contend that the steps of claim 28 are a matter of obvious design choice. However, this is not a valid obviousness argument, since the "design choice" doctrine is relevant when only insignificant differences exist between a claimed device and the prior art (e.g., claiming two screws to hold a pair of parts together, when the prior art shows three screws). In the present case, claim 28 recites a series of specific surgical steps that are not taught or even suggested by Dalton. Therefore, the design choice doctrine is not applicable here, and cannot support an obviousness rejection.

Consequently, claim 28 is patentable.

Regarding the obviousness rejection of dependent claims 3-14 and 21-23 based on Dalton, these claims are patentable by virtue of their dependence from independent claims 1 and 18, respectively.

Further regarding dependent claims 3 and 5-9, Dalton does not teach or suggest the claimed removable hollow casing of claim 3, and so cannot teach or suggest the features relating to the hollow casing recited in claims 5-9. Contrary to the unsupported contentions in the Office Action, the addition of the hollow casing is not a "mere duplication of the essential working parts" of the

claimed port. The hollow casing is an additional feature, not a duplicated feature. Consequently, claims 3 and 5-9 are further and separately patentable.

Further regarding dependent claims 22 and 23, Dalton does not teach or suggest any of the steps of these claims. Consequently, claims 22 and 23 are further and separately patentable.

Claims 15 and 17 were indicated as containing allowable subject matter, but were objected to as being dependent on a rejected base claim. Claims 15 and 17 are patentable because their base claim 1 is patentable.

Having fully responded to all matters raised in the Office Action, Applicant submits that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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